

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

CHRISTOPHER PRACHT, as Personal)
Representative of the ESTATE OF ERIC F.)
LEE)

Plaintiffs,)

vs.)

SAGA FREIGHT LOGISTICS, LLC and)
TOMAS HERRERA, JR.,)

Defendant.)

NOTICE OF REMOVAL

C.A. No.: _____

**TO: THE HONORABLE DISTRICT COURT OF THE UNITED STATES FOR THE
WESTERN DISTRICT OF NORTH CAROLINA, CHARLOTTE DIVISION**

Defendant, Saga Freight Logistics, LLC, would respectfully show unto the Court as follows:

1. Defendant, Saga Freight Logistics, LLC (hereinafter “Saga Logistics”) is a party to a civil action brought against it in the Superior Court Division of Gaston County entitled “Christopher Pracht, as Personal Representative of the Estate of Eric F. Lee v. Saga Freight Logistics, LLC and Tomas Herrera, Jr.,” C.A. No.: 13-CVS-3166, which action was commenced against Saga Logistics by the filing of a Summons and Complaint on August 15, 2013. The Summons and Complaint were served on Saga Logistics on August 26, 2013. Tomas Herrera, upon information and belief, has not been served. No further proceedings have taken place in that action.

2. This petition for removal is timely filed pursuant to 28 U.S.C. § 1446(b) in that it is filed within thirty (30) days of the date on which Saga Logistics first received the Summons and Complaint to which it is a party to the action.

3. Upon information and belief, Eric F. Lee was a citizen and resident of the State of South Carolina.¹ (See Complaint ¶ 1). Upon information and belief, Mr. Lee's employer, R&L Carriers, Inc. is a citizen and resident of Ohio.

4. Defendant Saga Logistics is a citizen and resident of the State of Texas. (See Complaint ¶ 3).

5. Upon information and belief, Defendant Tomas Herrera, Jr. is a citizen and resident of the State of Texas. (See Complaint ¶ 4).

6. Further, the amount in controversy, exclusive of interest and costs, exceeds the sum of \$75,000.00. Plaintiff seeks recovery for Eric F. Lee's alleged wrongful death, including pain and suffering, medical expenses, funeral expenses, net income, loss of services, loss of society, and punitive damages (See Complaint ¶ 54) allegedly sustained in a tractor-trailer accident on Interstate 85 in Gaston County, North Carolina. Although Defendant denies any wrong doing, the allegations of injuries and damages sought in the Complaint are substantial and similar to other actions in which other plaintiffs have sought and recovered damages in excess of \$75,000.00. Thus, the jurisdictional amount is satisfied.

7. The United States District Court for the Western District of North Carolina has original subject matter jurisdiction of this civil action pursuant to 28 U.S.C. § 1332 because there is complete diversity of citizenship among all of the properly jointed parties, and the amount in controversy in this civil action, exclusive of interest and costs, exceeds the sum of \$75,000.00.

8. Pursuant to 28 U.S.C. § 1446(a) a copy of all process, pleadings and orders received by the removing Defendant are attached hereto as **Exhibit A**.

¹ Pursuant to 28 U.S.C.A. § 1332(c)(2), "the legal representative of the estate of a decedent shall be deemed to be a citizen only of the same State as the decedent."

9. Saga Logistics submits this Notice of Removal without waiving any defense to the claims asserted by Plaintiff or conceding that Plaintiff has pled claims upon which relief can be granted. Saga Logistics specifically reserves the right to assert, if applicable, any and all defenses enumerated under Rule 12 of the Federal Rules of Civil Procedure or any other affirmative defenses, including those enumerated under Rule 8(c) of the Federal Rules of Civil Procedure, upon the filing of its responsive pleadings within the time allotted under the Federal Rules of Civil Procedure.

WHEREFORE, Defendant, Saga Freight Logistics, LLC, prays that the above case now pending against it in the Superior Court Division of Gaston County, North Carolina be removed therefrom.

September 23, 2013

s/Christopher M. Kelly
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